



January 30, 2004

SENATE BILL No. 497

DIGEST OF SB 497 (Updated January 28, 2004 4:49 pm - DI 104)

Citations Affected: IC 4-15; IC 16-18; IC 16-47; noncode.

Synopsis: Aggregate purchasing of prescription drugs. Requires the state personnel department, with the approval of the budget agency, to establish an aggregate prescription drug purchasing program to negotiate terms related to the purchase of prescription drugs. Requires participation by certain entities and allows participation by certain other entities. Authorizes the state to enter into multi-state prescription drug aggregate purchasing agreements. Requires the budget agency to report to the budget committee on participation in a regional or multi-state prescription drug aggregate purchasing program. Requires the prescription drug advisory committee to determine certain changes to the Hoosier Rx program before July 1, 2005, and to report these changes as recommendations to the office of the secretary of family and social services.

Effective: July 1, 2004.

Simpson, Miller

January 13, 2004, read first time and referred to Committee on Health and Provider Services.
January 29, 2004, amended, reported favorably — Do Pass.

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SB 497—LS 6313/DI 104+



January 30, 2004

Second Regular Session 113th General Assembly (2004)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2003 Regular Session of the General Assembly.

SENATE BILL No. 497

A BILL FOR AN ACT to amend the Indiana Code concerning health.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 4-15-1.8-7, AS AMENDED BY P.L.224-2003, SECTION 39, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 7. (a) The department shall do the following:

- (1) Develop personnel policies, methods, procedures, and standards for all state agencies.
- (2) Formulate, establish, and administer position classification plans and salary and wage schedules, all subject to final approval by the governor.
- (3) Allocate positions in the state agencies to their proper classifications.
- (4) Approve employees for transfer, demotion, promotion, suspension, layoff, and dismissal.
- (5) Rate employees' service.
- (6) Arrange with state agency heads for employee training.
- (7) Investigate the need for positions in the state agencies.
- (8) Promulgate and enforce personnel rules.
- (9) Make and administer examinations for employment and for

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promotions.

(10) Maintain personnel records and a roster of the personnel of all state agencies.

(11) Render personnel services to the political subdivisions of ~~Indiana~~ the state.

(12) Investigate the operation of personnel policies in all state agencies.

(13) Assist state agencies in the improvement of their personnel procedures.

(14) Conduct a vigorous program of recruitment of qualified and able persons for the state agencies.

(15) Advise the governor and the general assembly of legislation needed to improve the personnel system of this state.

(16) Furnish any information and counsel requested by the governor or the general assembly.

(17) Establish and administer an employee training and career advancement program.

(18) Administer the state personnel law, IC 4-15-2.

(19) Institute an employee awards system designed to encourage all state employees to submit suggestions that will reduce the costs or improve the quality of state agencies.

(20) Survey the administrative organization and procedures, including personnel procedures, of all state agencies, and submit to the governor measures to secure greater efficiency and economy, to minimize the duplication of activities, and to effect better organization and procedures among state agencies.

(21) Establish, implement, and maintain the state aggregate prescription drug purchasing program established under IC 16-47-1, as approved by the budget agency.

(b) Salary and wage schedules established by the department under subsection (a) must provide for the establishment of overtime policies, which must include the following:

(1) Definition of overtime.

(2) Determination of employees or classes eligible for overtime pay.

(3) Procedures for authorization.

(4) Methods of computation.

(5) Procedures for payment.

(6) A provision that there shall be no mandatory adjustments to an employee's established work schedule in order to avoid the payment of overtime.

(c) The state personnel advisory board shall advise the director and

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cooperate in the improvement of all the personnel policies of the state.

(d) By January 1, 1984, the department shall establish programs of temporary appointment for employees of state agencies. A program established under this subsection must contain at least the following provisions:

(1) A temporary appointment may not exceed one hundred eighty (180) working days in any twelve (12) month period.

(2) The department may allow exceptions to the prohibition in subdivision (1) with the approval of the state budget agency.

(3) A temporary appointment in an agency covered by IC 4-15-2 is governed by the procedures of that chapter.

(4) A temporary appointment does not constitute creditable service for purposes of the public employees' retirement program under IC 5-10.2 and IC 5-10.3. However, an employee who served in an intermittent form of temporary employment after June 30, 1986, and before July 1, 2003, shall receive creditable service for the period of temporary employment.

SECTION 2. IC 16-18-2-92.6 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: **Sec. 92.6. "Department", for purposes of IC 16-47-1, has the meaning set forth in IC 16-47-1-1.**

SECTION 3. IC 16-18-2-159.1 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: **Sec. 159.1. "Health benefit plan", for purposes of IC 16-47-1, has the meaning set forth in IC 16-47-1-2.**

SECTION 4. IC 16-18-2-294.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: **Sec. 294.5. "Program", for purposes of IC 16-47-1, has the meaning set forth in IC 16-47-1-3.**

SECTION 5. IC 16-47 IS ADDED TO THE INDIANA CODE AS A **NEW** ARTICLE TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]:

ARTICLE 47. AGGREGATE PURCHASING OF PRESCRIPTION DRUGS

Chapter 1. State Aggregate Prescription Drug Purchasing Program

Sec. 1. As used in this chapter, "department" refers to the state personnel department.

Sec. 2. As used in this chapter, "health benefit plan" refers to the following:

(1) An accident and sickness insurance policy purchased or maintained under IC 5-10-8-7(a)(3).

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(2) A self-insurance program established under IC 5-10-8-7(b) to provide group health coverage.

(3) A contract with a prepaid health care delivery plan that is entered into or renewed under IC 5-10-8-7(c).

(4) A plan through which a state educational institution (as defined in IC 20-12-0.5-1) arranges for coverage of the cost of health care services (as defined in IC 27-13-1-18) provided to employees of the state educational institution.

Sec. 3. As used in this chapter, "program" refers to the aggregate prescription drug purchasing program established under this chapter.

Sec. 4. (a) The department, with the approval of the budget agency, shall establish, implement, and maintain an aggregate prescription drug purchasing program through which terms are negotiated related to the purchase of prescription drugs by:

(1) an entity described in section 5(a) or 5(b) of this chapter; or

(2) an individual who is covered under a health benefit plan that includes a prescription drug benefit.

(b) The budget agency may contract with a pharmacy benefit manager or other person to conduct the negotiations of the program established under subsection (a).

(c) The terms and conditions of the program are subject to approval by the budget agency.

Sec. 5. (a) The following shall participate in the program:

(1) The department, for a health benefit plan:

(A) described in section 2(1), 2(2), or 2(3) of this chapter; and

(B) that provides coverage for prescription drugs.

(2) A state educational institution, for a health benefit plan:

(A) described in section 2(4) of this chapter; and

(B) that provides coverage for prescription drugs;

unless the budget agency determines that the state educational institution's participation in the program would not result in an overall financial benefit.

(b) The following may participate in the program:

(1) A state agency other than the department that:

(A) purchases prescription drugs; or

(B) arranges for the payment of the cost of prescription drugs.

(2) A local unit (as defined in IC 5-10-8-1).

(3) The Indiana comprehensive health insurance association

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established under IC 27-8-10.

(c) The state Medicaid program may not participate in the program under this chapter.

Sec. 6. A request for proposal and the award of a contract under this chapter is subject to the approval of the budget agency.

Sec. 7. The program may not include the purchase of prescription drugs obtained from a country other than the United States.

Sec. 8. (a) Participation in the program by a pharmaceutical manufacturer is voluntary.

(b) The state may not:

(1) require prior authorization for a prescription drug in the state Medicaid program under IC 12-15; or

(2) otherwise penalize a pharmaceutical manufacturer; because the pharmaceutical manufacturer is not participating in the program.

Sec. 9. Any information, including prescription drug prices and discounts, provided to the state under this chapter is confidential and is exempt from disclosure under IC 5-14-3.

Chapter 2. Multi-State Prescription Drug Aggregate Purchasing Program

Sec. 1. The state, with the approval of the governor, may enter into agreements with other states to jointly purchase prescription drugs in aggregate or provide for reimbursement of the cost of prescription drugs purchased in aggregate to reduce the prescription drug costs for the state and for Indiana residents covered under this chapter.

Sec. 2. (a) The program described in this chapter may not include the purchase of prescription drugs obtained from a country other than the United States.

(b) The state may not participate in a program described in this chapter that includes the purchase or reimbursement for prescription drugs obtained from a country other than the United States.

Sec. 3. (a) Participation in the program described in this chapter by a pharmaceutical manufacturer is voluntary.

(b) The state may not participate in a program described in this chapter that:

(1) requires prior authorization of a prescription drug in the state Medicaid program under IC 12-15; or

(2) otherwise penalizes a pharmaceutical manufacturer; because a pharmaceutical manufacturer does not participate in the

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1 program.

2 **Sec. 4. Any information, including prescription drug prices and**
 3 **discounts, provided under this chapter is confidential and is**
 4 **exempt from disclosure under IC 5-14-3.**

5 **SECTION 6. [EFFECTIVE JULY 1, 2004] (a) IC 16-47-1-5(a)(1),**
 6 **as added by this act, applies to a health benefit plan described in**
 7 **IC 16-47-1-2(1), IC 16-47-1-2(2), and IC 16-47-1-2(3), all as added**
 8 **by this act, on the earlier of:**

9 (1) the date that the health benefit plan is established, entered
 10 into, delivered, amended, or renewed after June 30, 2004; or

11 (2) January 1, 2005.

12 (b) IC 16-47-1-5(a)(2), as added by this act, applies to a health
 13 benefit plan described in IC 16-47-1-2(4), as added by this act, on
 14 the date that the health benefit plan is established, entered into,
 15 delivered, amended, or renewed after June 30, 2004.

16 **SECTION 7. [EFFECTIVE JULY 1, 2004] (a) Not later than**
 17 **November 1, 2004, the budget agency shall conduct a study and**
 18 **submit a written report to the budget committee that:**

19 (1) sets forth the status of the participation of other
 20 midwestern states; and

21 (2) researches the feasibility, costs, and legal parameters of
 22 Indiana's participation;

23 **in a regional or multi-state prescription drug aggregate purchasing**
 24 **program.**

25 (b) This SECTION expires December 31, 2005.

26 **SECTION 8. [EFFECTIVE JULY 1, 2004] (a) As used in this**
 27 **SECTION, "committee" refers to the prescription drug advisory**
 28 **committee established by P.L.106-2002, SECTION 1.**

29 (b) Before July 1, 2005, the committee shall determine changes
 30 to the Indiana prescription drug program established by
 31 IC 12-10-16-3 that are necessary as a result of the passage of the
 32 federal Medicare Prescription Drug, Improvement, and
 33 Modernization Act of 2003. The committee shall determine the
 34 following elements in changing the program:

35 (1) Benefits available under the program.

36 (2) Eligibility requirements.

37 (3) Whether the program will include copayments or
 38 spenddown requirements.

39 (c) The committee shall report the changes determined by the
 40 committee under section (b) as recommendations to the office of
 41 the secretary of family and social services.

42 (d) This SECTION expires December 31, 2005.

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SENATE MOTION

Madam President: I move that Senator Miller be added as coauthor of Senate Bill 497.

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COMMITTEE REPORT

Madam President: The Senate Committee on Health and Provider Services, to which was referred Senate Bill No. 497, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 2, line 29, delete "IC 16-47-1." and insert **"IC 16-47-1, as approved by the budget agency."**

Page 4, line 12, delete "department" and insert **"department, with the approval of the budget agency,"**.

Page 4, line 20, delete "department" and insert **"budget agency"**.

Page 4, between lines 22 and 23, begin a new paragraph and insert:

"(c) The terms and conditions of the program are subject to approval by the budget agency."

Page 4, between lines 41 and 42, begin a new paragraph and insert:

"(c) The state Medicaid program may not participate in the program under this chapter."

Page 5, line 2, delete "The department may adopt rules under IC 4-22-2 to" and insert **"The program may not include the purchase of prescription drugs obtained from a country other than the United States."**

Sec. 8. (a) Participation in the program by a pharmaceutical manufacturer is voluntary.

(b) The state may not:

(1) require prior authorization for a prescription drug in the state Medicaid program under IC 12-15; or

(2) otherwise penalize a pharmaceutical manufacturer;

because the pharmaceutical manufacturer is not participating in the program.

Sec. 9. Any information, including prescription drug prices and discounts, provided to the state under this chapter is confidential and is exempt from disclosure under IC 5-14-3."

Page 5, delete line 3.

Page 5, line 6, delete "state" and insert **"state, with the approval of the governor,"**.

Page 5, line 10, delete "residents." and insert **"residents covered under this chapter."**

Sec. 2. (a) The program described in this chapter may not include the purchase of prescription drugs obtained from a country other than the United States.

(b) The state may not participate in a program described in this chapter that includes the purchase or reimbursement for

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prescription drugs obtained from a country other than the United States.

Sec. 3. (a) Participation in the program described in this chapter by a pharmaceutical manufacturer is voluntary.

(b) The state may not participate in a program described in this chapter that:

(1) requires prior authorization of a prescription drug in the state Medicaid program under IC 12-15; or

(2) otherwise penalizes a pharmaceutical manufacturer; because a pharmaceutical manufacturer does not participate in the program.

Sec. 4. Any information, including prescription drug prices and discounts, provided under this chapter is confidential and is exempt from disclosure under IC 5-14-3."

Page 5, line 27, delete "feasibility" and insert "feasibility, costs, and legal parameters".

and when so amended that said bill do pass.

(Reference is to SB 497 as introduced.)

MILLER, Chairperson

Committee Vote: Yeas 7, Nays 0.

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